

AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
October 1, 2013
Gorham Municipal Center-Burleigh H. Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call of the Town Council

Acceptance of the minutes of the September 3, 2013 Regular Meeting as printed and distributed.

Open Public Communications

Councilor Communications/Committee Reports

Town Manager's Report

School Committee Report

Old Business

Item #8349 Action to consider a request for a contract zone amendment to allow design modifications to the Hansen Contract Zone for a convenience/service station at 74 County Road (Tax Map 3, Lot 22.404) (Admin. Spon)

Proposed

Order# 8349 The Order as previously moved, seconded and amended, Ordered, that the Town Council approve the following:

**AMENDMENT TO CONTRACT ZONING AGREEMENT
BETWEEN HANS C. HANSEN, INC.
AND THE TOWN OF GORHAM**

This Amendment to Contract Zoning Agreement, made this _____ day of _____, 2013, by and between the **TOWN OF GORHAM**, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town") and **HANS HANSEN, INC.**, a Maine corporation with a mailing address of P.O. Box 264, Gorham, Maine 04038 (hereinafter "Hansen").

WHEREAS, the Town entered into a Contract Zoning Agreement with Hansen, dated October 21, 2011 and recorded in the Cumberland County Registry of Deeds in Book 29646,

Page 97 (hereinafter the “Contract Zoning Agreement”) that established zoning regulations for a parcel of real estate located at 74 County Road, Gorham, Maine, consisting of 23.8 acres (hereinafter “the Property”); and

WHEREAS, the Property consists of Lots 22.401, 22.402, 22.403, 22.404, 22.502, 22.503, 22.504, 22.505, 22.506 and 22.507 on the Town’s Tax Map 3; and

WHEREAS, the Contract Zoning Agreement established use, dimensional and performance standards for the Property; and

WHEREAS, Hansen has entered into a Purchase and Sale Agreement with GC CF New England, LLC, for the purchase of the unit to be located on the area consisting of Tax Map 3, Lot 22.404 of the Property (hereinafter the “Parcel”), also known as Unit 4 of the Stargazer Subdivision, a condominium development; and

WHEREAS, Hansen seeks to amend the dimensional and performance standards established by the Contract Zoning Agreement in order to facilitate the proposed development of the Parcel; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property and to amend the contract rezoning, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended this Amendment to the Contract Zoning Agreement; and

WHEREAS, this Amendment will change only dimensional and performance standards for the Parcel and will not allow additional uses on the Property or the Parcel; and

WHEREAS, both the Planning Board and the Town Council determined that the original Contract Zoning Agreement was pursuant to and consistent with the Town's Comprehensive Plan and the Town Council has authorized the execution of this Amendment to Contract Zoning Agreement;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. **Amendment to Contract Zoning Agreement, Section 2.d.** The Contract Zoning Agreement is amended to revise Section 2.d to read as follows: Convenience stores, either with or without associated gasoline sales, provided that the hours of operation shall be limited to between 5:00 A.M. and midnight.

2. **Amendment to Contract Zoning Agreement, Section 4.** The Contract Zoning Agreement is amended to revise Section 4 to read as follows:

Performance Standards. All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code. No construction shall occur on the Property between the hours of 7:00 P.M. and 7:00 A.M.

3. **Amendment of Contract Zoning Agreement, Section 6A.** The Contract Zoning Agreement is amended to add a new Section 6.A, to read: Notwithstanding the provisions of Section 5.e and 6.a and d, development on Unit 4, Tax Map 3, Lot 22.404 shall be allowed in substantial conformance with the plans included in Exhibit A, which is hereby incorporated and made a part of this Agreement. In the event of any conflict between the provisions of Sections 5.e, 6.a or 6.d and Exhibit A, the provisions of Exhibit A shall control.

4. **Remaining provisions remain in full force and effect.** Except as expressly amended herein, the provisions of the Contract Zoning Agreement shall remain in full force and effect.

Item #8354 Action to consider re-appropriating funds as recommended by the Finance Committee. (Finance Comm. Spon 3-0)

Proposed

Order # 8354 The Order as previously moved and seconded, Ordered, that the Town Council reallocate the following funds:

1. Facilities Study	\$ 6,201.00
2. Little Falls Tennis Courts	\$ 1,469.00
3. Baxter Library Carpet Replacement	\$ 5.50
4. Pager Replacement	\$ 6,306.00
5. Pay Per Bag Start-up costs	\$ 5,636.43
6. Arson Reward	\$ 10,000.00
7. Unallocated Cap.Part 2 (fy2012-13)	\$ 5,000.00
8. White Rock School Demolition	\$ 60,000.00

\$94,617.93

With funds applied to;

Holiday Lights on Main Street	\$ 310.00
Facility Study-Little Falls	\$ 43,491.65
Narragansett School Parking lot	\$ 6,027.89
Maintenance or replacement of Basketball and Tennis Courts at Little Falls Rec. area.	\$ 44,788.39

\$ 94,617.93

Item #8361 Action to consider going into Executive session pursuant to Title 36, M.R.S.A, Section 841 (2) for the purpose of considering two applications for abatement of taxes. (Admin Spon.)

Proposed

Order #8361 Ordered, that the Town Council go into Executive session Pursuant to Title 36, M.R.S.A., Section 841 (2) for the purpose of considering two applications for abatement of taxes based on poverty.

New Business

Public
Hearing #1 A Public Hearing on the renewal of automobile Graveyard/Junkyard Permits for 2014.

Item #8362 Action to approve renewal of Automobile Graveyard/Junkyard Permits for 2014 (Admin Spon)

Proposed
Order #8362 Ordered, that the Town Council approve renewal for the following Automobile Graveyard/Junkyard Permits for 2014.

DARRYL WESTON	LKQ CORP. /GORHAM AUTO	176 NARRAGANSETT ST
RALPH CARTONIO	SOUTH ST. AUTO BODY	346 SOUTH ST.
DAVE MCCULLOUGH	M&D RENTAL	393 OSSIPEE TRL.
GARY NELSON	CHET'S AUTO SALES	475 OSSIPEE TRL.
DONALD HOPKINS	HOPKINS SALVAGE	230 NORTH GORHAM RD.
BRUCE YOUNG	YOUNG'S AUTO SALVAGE	721 FORT HILL RD.
GORDON REICHERT	REICHERT'S AUTO BODY	112 SHAWS MILL RD.
SHAWN MOODY	MODDYS/ INS AUTO AUCTION	200 NARRAGANSETT ST.
JOHN DUMBROCYO	DUMBO ENTERPRISES	86 LONGFELLOW RD.

Public
Hearing #2 Public Hearing on an application for a Special Amusement Permit for Your Space-SMCRC.

Item #8363 Action regarding the application for a Special Amusement Permit for Your Space-SMCRC located at 215 Narragansett Street.

Proposed
Order # 8363 Ordered, that the Town Council approve the Special Amusement Permit for Your Space-SMCRC located at 215 Narragansett Street.

Public
Hearing #3 Public Hearing on a proposal to amend the Town's Special Amusement Ordinance to allow outdoor events and relax the noise standard.

Item #8364 Action to consider a proposal to amend the Town's Special Amusement Ordinance. (Ordinance Committee spon 2-1)

Proposed
Order #8364 Whereas, on September 5, 1978, the Town of Gorham enacted an Ordinance to regulate Special Amusements, as required by State law, and

Whereas, on April 2, 2013, the Town Council asked their Ordinance Committee to review the Special Amusement Ordinance and recommend changes, if any, and

Whereas, the Town Attorney has provided his opinion that outdoor special events are allowed by the State Law but not allowed under the Town's current Ordinance, and

Whereas, the Town recently had an application from a business seeking a permit to conduct special amusement events outdoors, that were not permitted by the current Ordinance, and

Whereas, the Town of Gorham has experienced considerable growth over the last 20 years and therefore, anticipates that the Town will receive more requests in the future from businesses seeking to provide special amusement events outdoors, and

Whereas, the Town Council would like to accommodate businesses who apply to conduct a special amusement outdoors, while also providing fair and reasonable protection to owners of abutting and neighboring properties,

NOW THEREFOR, BE IT ORDERED, that the Town Council approve the amendments to the Special Amusement Ordinance as proposed.

Public

Hearing #4

Public Hearing on a proposal to amend the Land Use and Development Code by adding definitions for airstrips (including Runways and Landing Strips) and Runways and a proposal to allow off-premise signs for farm stands.

Item #8365

Action to consider amending the Land Use and Development Code by adding definitions for airstrips (including Runways and Landing Strips) and Runways. (Admin Spon)

Proposed

Order #8365

Whereas, the Town has a Land Use and Development Code to regulate land use and development with definitions that help to clarify the Code, and
Whereas, the Town has dealt with development issues in the past regarding airstrips, runways, and landing strips without any definition in the Land Use and Development Code, resulting in ambiguity for the applicant, Town Staff and Planning Board, and
Whereas, it is in the best interest of the Town and applicant for the Town to clarify its intent with respect to airstrips, runways and landing strips, and

Whereas, the Planning Board held a Public Hearing on September 9, 2013, and after the hearing recommended approval with modifications.

Now Therefore, Be It Ordered, that the Town Council approve the amendment to Chapter 1, Section V, Definitions of the Land Use and Development Code as recommended by the Planning Board.

Item #8366

Action to consider amending the Land Use and Development Code to allow off-premise farm stand signs. (Admin Spon)

Proposed

Order #8366

Whereas, the State of Maine allows off-premise directional signs for farm-stands, and
Whereas, the Town's Land Use and Development Code doesn't currently allow off-premise signs but believes there is a valid public interest to be served by allowing

limited off-premise directional signs for farm-stands, without harming the public interest, and

Whereas, the Planning Board held a Public Hearing on September 9, 2013, and after hearing, recommended approval,

Now Therefore, Be it Ordered, that the Town Council approve an amendment to Chapter II, Section III, Signs, of the Land Use and Development Code to allow off-premise farm – stand signs, as proposed.

Item #8367 Action to consider accepting Town Common Road located off Libby Avenue, as a public road. (Admin Spon)

Proposed

Order #8367 Ordered, that the Town Council accept Town Common road, located in Gorham Village Green Subdivision off Libby Avenue, as a public road, and

Be It Further Ordered, that Town Common road be classified as an Urban Access Road.

Item #8368 Action to consider abating taxes to Northern New England Telephone, LLC d/b/a Fairpoint Communications –NNE, for the 2009/10 fiscal years. (Admin Spon)

Proposed

Order #8368 Ordered, that the Town Council abate all taxes and costs for the 2009/10 fiscal year for Northern New England Telephone, LLC d/b/a Fairpoint Communications – NNE due to bankruptcy proceedings and an inability to collect.

Item #8369 Action to consider appropriating Recreation Impact Fees to amend the Location of Development Act Site permit for the Chick property. (Councilor Moulton Spon)

Proposed

Order #8369 Ordered, that the Town Council appropriate \$32,120 from Recreation Impact Fees to amend the Department of Environmental Protection Site Location permit for the Chick property for future projects pursuant to the Chick Property Master Plan approved by the Gorham Town Council on September 2, 2008, to include separate projects for the development of a 90 foot baseball field, the construction of the basketball court, construction of the Ice Rink, construction of a parking lot in the Northwest corner of the Chick property and construction of 2 multi-purpose athletic fields , and

Be It Further Ordered, that the Town Council accept the proposal from Sebago Tec. for preparation of the application to D.E.P. and support service to obtain the amended permit.

Item #8370 Action to consider appropriating Recreation Impact Fees to move forward with the Little Falls Recreation Master Plan approved by the Town Council on August 6, 2013 (Councilor Moulton Spon.)

Proposed

Order #8370

Ordered, that the Town Council appropriate \$30,000 from Recreation Impact Fees to move forward and begin implementation of the Little Falls Recreation Area Master Plan, approved by the Town Council on August 6, 2013, by excavating the large hill and relocating the material on site as much as possible, and
BE IT FURTHER ORDERED, that the Town Council accepts a proposal from Sebago Tec. to provide engineering and support services for this project, and
BE IT FURTHER ORDERED, that the Town Council understands that this project will be done, over time, primarily by the Public Works Department as their schedule of work allows.

Item #8371

Action regarding the November 5, 2013 State Referendum and Annual Municipal Election (Admin Spon)

Proposed

Order #8371

Ordered, by the Town Council that the polls be open for the November 5, 2013 State Referendum Election and the Annual Municipal Election between the hours of 7:00 am and 8:00 pm, and

BE IT FURTHER ORDERED, that absentee ballots will be processed on Monday November 4, 2013 at 9:00 and on Tuesday, November 5, 2013 at 8:00 am, 2:00 pm, 6:00 pm, and 8:00 pm, and

BE IT FURTHERED ORDERED, that the Registrar of Voters is in session between the hours of 8:00 am and 4:00 pm on Tuesday ,October 29 and Wednesday October 30; 8:00 am and 7:00 pm Thursday, October 31; 8:00 am and 1:00 pm on Friday, November 1, and 8:00 am until 4:00 pm on Monday November 4, 2013 for the purpose of registering citizens to vote, correcting the Voter list and accepting Absentee Ballots, and

BE IT FURTHER ORDERED, that the Town Council appoint the following Wardens and Ward Clerks for the November 5, 2013 State Referendum, Municipal Election and that the Acting Town Clerk is authorized to make changes to these appointments as needed:

Ward 1 Warden- Susan Emerson, Ward Clerk- Laurel Smith
Ward 2 Warden Patricia Clay, Ward Clerk- Nancy Kenty
Central Warden –Laurie Nordfors, Ward Clerk- Marina Lewis

Item #8372

Action to consider going into Executive session pursuant to Title 36, M.R.S.A, Section 841 (2) for the purpose of considering two applications for abatement of taxes. (Admin Spon.)

Proposed

Order #8372

Ordered, that the Town Council go into Executive session Pursuant to Title 36, M.R.S.A., Section 841 (2) for the purpose of considering two applications for abatement of taxes based on poverty.

ADJOURN

